

In the High Court of Judicature at Madras

Dated:16.02.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition No.157 of 2006

R. Moorthy

.. Petitioner

vs.

1. The State of Tamil Nadu
rep. by its Home Secretary
Fort St. George, Chennai.
2. Director General of Police
Beach Road, Mylapore
Chennai.
3. Inspector of Police
All Women Police Station
Sandhappettai
Tirukoilur Taluk
Viluppuram District.
4. Inspector of Police
Law & Order
Tirukoilur 605 757
Viluppuram District.

5. S. Selvaraj

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For petitioner : Mr. D. Lingeswaran
For respondents : Mr. Abudukumar Rajarathinam
1 to 4 Govt. Advocate (Crl.side)

Mr. A. Sashidharan for R.5

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ORDER

(Order of the Court was made by P. SATHASIVAM, J.)

The petitioner by name R. Moorthy has approached this Court to direct the respondents to produce his wife Mrs. Jeyanthi before this Court and to set her at liberty forthwith.

2. In the affidavit filed in support of the above petition, the petitioner has stated that he owns ancestral property in Pidari Amman Koil Street, Tirukoilur Taluk, Villupuram District, which is worth about Rs.1 crore. Since there was a dispute between himself and his father, they went in for panchayat in the year 1997 before the 5th respondent, who is a Member of the Legislative Assembly and whose native is also Tirukoilur Town. It is further stated that during the course of panchayat, the 5th respondent enticed his wife Jeyanthi and raped her at Jeyaram Lodge, Pallivasal Street, Tirukoilur. Then he abused her with his money and muscle power and managed to maintain an illicit relationship with her. After few years, his wife visited Vaitheeswaran Koil for consultation with reputed Naadi-Jothidam. After return, she informed him that she was destined to develop connections with bigwigs. She also confessed her illicit relationship with 5th respondent and requested the petitioner to marry someone else and live happily. According to the petitioner, he declined the said suggestion and insisted that he would continue the sacred marital relationship despite her misdemeanors.

2 (a). Due to financial constraints, the petitioner left to Madras to eke out the livelihood and was working at Velusamy Chettinad Restaruant at Mount Road in the year 2005. When he returned to his native for vacation, his wife was not available at his residence and enquiries revealed that his wife had lodged a complaint before the third respondent, Inspector of All Women Police Station, Sandhapettai, Tirukoillur Taluk, that 5th respondent is the father of her second son and repeatedly sought police intervention to unite herself with the 5th respondent and to secure maintenance from him for her routine expenses. She had, even as early as July 2005, approached the learned Judicial Magistrate, Tirukkoilur, and submitted a petition informing the learned Magistrate about the said details and sought to unite her with the 5th respondent before securing adequate money for the maintenance of herself and her second son. The learned Magistrate, forwarded the said representation to the local Deputy Superintendent of Police. It is further stated that the complaint before the third respondent was informed to the brother of the 5th respondent, viz., one S.K. @ S. Karthikeyan and thereafter, the 5th respondent's men abducted her in a jeep bearing registration

No.TN32 K 2772 with the knowledge of one Gopu, Councilor of Tirukkoilur and others. It is further stated that despite his vigorous search for over the past 3 months, he could not ascertain the whereabouts of his wife and when he preferred complaints before the 4th respondent, they are reluctant to entertain or acknowledge receipts for the same due to involvement of the 5th respondent. It is further stated that on 01.02.2006, the petitioner met the second respondent, Director General of Police, Chennai, who promised to take appropriate steps. In such circumstances, according to the petitioner, having no other effective remedy, he has filed the present petition for production of his wife.

3. Pursuant to the direction of this Court, respondents 3 and 4 produced the detainee, viz., Mrs. Lakshmi @ Jeyanthi, before this Court. We enquired her. On our enquiry, she has stated that, she is aged about 33 years and as on date she is studying in Government Service Home, Cuddalore. She further informed us that she had connection with 5th respondent and lived together with him for sometime. According to her, 5th respondent is the father of her second son, who is aged about 7 ½ years. She states that she also filed a petition before the Judicial Magistrate, Tirukkoilur, with a request to unite her with the 5th respondent. She is not in a position to inform the details of the said petition said to have been filed by her before the Judicial Magistrate Court, Thirukoilur.

4. Learned Government Advocate informs that she approached the learned Magistrate for claiming maintenance from 5th respondent for herself and her second son and that the said petition is still pending.

5. Mr. A. Sashidharan, learned counsel appearing for the 5th respondent, denied all the allegations made in the affidavit as well as the statement of the detainee made before us.

6. In view of the relief sought for in this petition and the jurisdiction of this Court in habeas corpus petition, it is unnecessary for this Court to go into the genuineness of the allegations made in the affidavit or the correctness of the statement of the detainee. The fact remains, the detainee is a major, aged about 33 years and according to her though she made allegations against the 5th respondent and lived with him for some time and had the second son through him, admittedly, at present, she is studying in Government Service Home, Cuddalore, and also filed a petition before the Judicial Magistrate, Tirukkoilur. Thus, it is clear that the detainee is not in custody or illegal detention of any one including the 5th respondent. In the light of the same and in view of the statement of the detainee, no further

adjudication is required in this petition. Parties are at liberty to pursue their remedies before the appropriate forum.

With the above observation this petition is closed. It is made clear that only for the disposal of the above petition we have referred to the averments made in the affidavit as well as the statement of the detainee who appeared before us. It is further made clear we have not expressed anything on merits regarding the claim of both the parties.

16.2.2006

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This case having been posted on Friday the fourth day of August 2006, for "being mentioned" and upon hearing the arguments of Mr. D. Lingeswaran Advocate for the petitioner and of Mr. Abudukumar Rajarathinam, Government Advocate (Crime Side) for Respondents 1 to 4 and of Mr. A. Sashidharan Advocate for the fifth respondent, the court made the following order:-

"At the instance of the counsel for petitioner, the above Habeas Corpus petition is posted to day for "Being mentioned".

2. The name of the 5th respondent Viz., S. Sivaraj, Which has been correctly shown in the petitioner; however in the order dated 16.2.2006, it is wrongly typed as "S. Selvaraj". Accordingly it should be read as "S. Sivaraj" instead of "S. Selvaraj".

4.8.2006

Sd/
Deputy Registrar (Judicial)

/true copy/

Sub Asst.Registrar

To

1. The Home Secretary
State of Tamil Nadu
Fort St. George, Chennai.
2. The Director General of Police
Beach Road, Mylapore, Chennai.

3. The Inspector of Police
All Women Police Station
Sandhappettai, Tirukoilur Taluk
Vilupuram District.
4. The Inspector of Police
Law & Order, Tirukoilur 605 757
Viluppuram District.
5. The Judicial Magistrate, Tirukkkoilur.
6. -do- Thro' The Chief Judicial Magistrate, Villupuram,
7. The Public Prosecutor, High Court, Madras 600 104.
- + 4 ccs to Mr. D. Lingeswaran, Advocate SR No. 35152

MS (CO)
SR/22.8.2006

Order in
H.C.P.No.157 of 2006



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